IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3705 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

AMABLAL MATHURBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR JITENDRA M PATEL for Petitioners

MR AJ DESAI APP for Respondent No. 1

MR PV HATHI for Respondent No. 2

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 04/08/2000

C.A.V. JUDGEMENT

Heard the learned counsel for the petitioners and the State. By this petition under Section 482 of the

Code of Criminal Procedure Code, the petitioner have prayed for quashing the proceedings in Criminal Inquiry No.25 of 1992 pending before the learned Judicial Magistrate, First Class at Padra wherein an order for investigation is made under Section 156 (3) of the Cr.P.C. below the complaint filed by respondent No.2.

2. The aforesaid complaint is filed against six persons alleging offences under Sections 468, 474 and 114 of the Indian Penal Code. Out of the five accused persons, the present petitioners, who are accused Nos.2 and 5, do not appear to be in any way involved in the alleged incident of obtaining signatures under duress on 12.8.1992. It is, therefore, contended and substantiated that no allegations are made against the petitioners and no case is disclosed or made out against them. The learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in R.P.KAPUR v. STATE OF PUNJAB (AIR 1960 SC 866).

3. The learned counsel appearing for the State has not stated any reason as to why a police investigation should be undertaken against the petitioners. It is also borne out from the original complaint that no allegations are made against the petitioners and, therefore, the criminal proceedings as against them are required to be quashed.

4. Accordingly, the petition is allowed and the proceedings in Criminal Inquiry No.25 of 1992 pending before the learned Judicial Magistrate, First Class at Padra are quashed as far as the petitioners of this petition are concerned. Rule is made absolute with no order as to costs.

(KMG Thilake)
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